

# ANALYSIS OF ORIGINAL BILL

## Franchise Tax Board

Author: Campbell Analyst: Marion Mann DeJong Bill Number: AB 128  
Related Bills: See Legislative History Telephone: 845-6979 Introduced Date: 01/15/2003  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** California Internet Tax Freedom Act/Extend Repeal Date to January 1, 2008

### SUMMARY

This bill would extend the expiration date of the California Internet Tax Freedom Act to January 1, 2008. This bill does not impact the programs administered by the department.

### PURPOSE OF THE BILL

The purpose of the California Internet Tax Freedom Act is to ensure that access to the Internet remains a tax-free environment in California. This bill would extend the Act for a period of 4 years.

### EFFECTIVE/OPERATIVE DATE

This bill would become effective on January 1, 2004.

### POSITION

Pending.

### ANALYSIS

#### FEDERAL/STATE LAW

The "Internet Tax Freedom Act" that was enacted under federal law imposes a moratorium on new taxes on Internet access and on "multiple or discriminatory" taxes on electronic commerce. The moratorium will expire on November 1, 2003.

Congress is currently considering three bills, S. 52 (Wyden), S. 150 (Allen), and H. 49 (Cox), that would make the federal moratorium on Internet taxes permanent.

State law has a similar moratorium in effect, called the "California Internet Tax Freedom Act." This act placed a moratorium on local taxation of Internet access or online computer services and of bit or bandwidth taxes. This act also prohibited any tax on Online Computer Services or Internet access that is higher than the tax imposed on other computer related manufacturing or business services or a tax that is applicable to a taxpayer solely because they offer or use Online Computer Services or Internet Access. The act expressly permits the imposition of sales and use taxes, business license taxes, utility user taxes, and any other new or existing tax of general application. The state moratorium will expire on January 1, 2004.

Board Position:

_____ S	_____ NA	_____ NP
_____ SA	_____ O	_____ NAR
_____ N	_____ OUA	_____ PENDING

Department Director  
Gerald H. Goldberg

Date  
02/05/03

## THIS BILL

This bill would extend the California Internet Tax Freedom Act until January 1, 2008. The Act would be repealed as of that date.

## IMPLEMENTATION CONSIDERATIONS

This bill would not impact the programs administered by the department.

## **LEGISLATIVE HISTORY**

- AB 1614 (Lempert, Stats. 1998, Ch. 351) enacted the California Internet Tax Freedom Act, prohibiting specified Internet taxes for three years.
- AB 1784 (Lempert, Stats. 2000, Ch. 618), as amended June 27, 2000, would have extended the expiration date of the California Internet Tax Freedom Act to January 1, 2005. It was enacted but did not become operative as it was tied to AB 2412 (Migden, 1999/2000), which was vetoed by the Governor.
- AB 2412 (Migden, 1999/2000) would have required a retailer affiliated with a retailer doing business in California to collect the sales and use tax. The Governor vetoed this bill in part because it would have re-enacted provisions that the Legislature repealed due to court decisions.
- SB 394 (Sher, Stats. 2001, Ch. 343) extended the California Internet Tax Freedom Act to January 1, 2004. The extension of the expiration date of the Act was contingent upon the submission of a report by the California Commission on Tax Policy in the New Economy to the Governor and Legislature prior to December 1, 2002. If the Commission failed to submit the report on time, the Act would be repealed on January 1, 2003, instead.

## **OTHER STATES' INFORMATION**

Review of *Florida, Illinois, Massachusetts, Michigan, Minnesota* and *New York* laws did not identify any Internet access taxes. *Florida* and *Massachusetts* have laws enacted that prohibit Internet access taxes. These states were reviewed because of the similarities between California income tax laws and their tax laws.

## **FISCAL IMPACT**

This bill would not impact the department's costs.

## **ECONOMIC IMPACT**

This bill would not impact Personal Income Tax or Bank and Corporation Tax revenues.

## **LEGISLATIVE STAFF CONTACT**

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